

REMARKS

These remarks are directed to the office action mailed September 8, 2008, setting a three month shortened statutory period for response set to expire on December 8, 2008. The office action issued by the Examiner and the citations referred to in the office action have been carefully considered.

Prompt reconsideration is requested in view of the above claim amendments and the following remarks. As indicated, amendments introduce no new matter. Claims 1-32 are pending.

Drawings

The Examiner requires corrected drawings in compliance with 37 CFR 1.1.21(d). Formal drawings are attached to this response.

The Examiner has indicated that the drawings fail to comply with 37 CFR 1.84(p)(5) because they do not include reference numeral 42. The specification has been amended to delete reference to reference numeral 42 and also to reference numeral 34.

It is respectfully submitted that the objections relating to the drawings have been overcome.

Specification

The Examiner has objected to the disclosure because of a number of informalities. The appropriate numberings in the specification have been corrected and it is respectfully submitted that these informalities have now been removed. It is respectfully submitted that this objection has been overcome and that the specification is now in order.

Claim Objections

The Examiner has objected to claims 28 and 31 because of various informalities.

Appropriate corrections to claims 28 and 31 have been effected and, as a result, these informalities have been removed. It is respectfully submitted that this objection has been overcome.

Claim Rejections under 35 USC § 112

The Examiner has rejected claims 1, 4 and 22 under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, the Examiner has objected to use of the term "little, if any" in claims 1, 4 and 22.

Claims 1, 4 and 22 have been amended to delete reference to this term.

It is respectfully submitted that this rejection has been overcome and withdrawal of the rejection of claims 1, 4 and 22 under 35 USC §112, second paragraph, is respectfully requested. The Examiner is thanked for his helpful suggestion.

Claim Rejections under 35 USC § 102

Claims 1, 2, 10, 15 and 16 are rejected under 35 USC §102(e) as being anticipated by US Patent Publication No. 2004/0175010 to Allegro et al. ("Allegro").

It is respectfully submitted that the Examiner has erred in holding that Allegro discloses a method of enhancing sound heard by a hearing-impaired listener where components of the sound in a speech frequency band are left substantially unchanged.

Allegro explicitly states, for example, in the Abstract, that the transposition scheme is applied to the **complete signal spectrum** without the need for switching between non-transposition and transposition processing for different parts of the signal (Applicants' emphasis). The Examiner is also respectfully referred to paragraphs 16 and 31 of Allegro. This is also quite

clearly shown in Figs. 1, 3 and 4 of Allegro where it is shown that the signal is transposed across the entire frequency band of the signal.

In contrast, in the method as claimed in claim 1, only the high frequency components of the sound are transposed. In the case of Allegro a continuous compression function is used. Although there is less compression at lower frequencies, lower frequency components of the signal are still transposed. In the present method as claimed, the frequencies in the speech frequency band are left uncompressed and, therefore, are not transposed.

It is respectfully pointed out that even "linear" transposition gives significant distortion in the speech frequency band. As indicated, since Allegro is using a continuous frequency transposition function, the components in the speech frequency band are always transposed and therefore are always distorted.

It is well established that, in respect of a novelty objection, the prior art must disclose all the integers of the invention as claimed. ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)).

In the circumstance, it is respectfully submitted that, since Allegro does not disclose each and every integer of the invention as presently claimed in claim 1, claim 1 is in an allowable format.

Since claims 2, 10, 15 and 16 depend directly or indirectly from claim 1, it is respectfully submitted that these claims are, similarly, in an allowable format.

Claim Rejections under 35 USC § 103

Claim 7 and 8 have been rejected under 35 USC §103(a) as being unpatentable over Allegro in view of US Patent Publication No. 2003/0072464 to Kates ("Kates").

As indicated above, Allegro does not disclose the feature of

leaving components of the sound in speech frequency band substantially unchanged.

Kates does not cure this deficiency. As claims 7 and 8 depend directly or indirectly from claim 1, it is respectfully submitted that claims 7 and 8 are therefore in an allowable format and withdrawal of this rejection is respectfully requested.

Claim 11 stands rejected under 35 USC 103(a) as being unpatentable over Allegro in view of US Patent No. 5,144,675 to Killion et al. ("Killion").

As indicated above, Allegro does not disclose the feature of

leaving components of the sound in a speech frequency band substantially unchanged.

Killion fails to cure this deficiency. As claim 11 is dependent directly or indirectly on claim 1, it is respectfully submitted that claim 11 is therefore in an allowable format and withdrawal of this rejection is respectfully requested.

It is respectfully pointed out that, although the Examiner has indicated on the cover sheet of the Office Action that claim 4 stands rejected, the Examiner has not indicated on what basis claim 4 has been rejected. It is respectfully submitted that, since claim 4 depends from an allowable base claim, claim 4 is, similarly, in an allowable format.

Conclusion

It is respectfully submitted that all of the Examiner's objections have been successfully traversed and that the application is now in order for allowance. Accordingly, reconsideration of the application and allowance thereof is courteously solicited.

The Director is authorized to charge any additional fee(s) or any underpayment of fee(s), or to credit any overpayments to **Deposit Account Number 50-2638**. Please ensure that Attorney Docket Number 058157-014900 is referred to when charging any payments or credits for this case.

Respectfully submitted,

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